

SENATE BILL 182

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SB 165/02 - FIN

2003 Regular Session  
3r0799

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By: **Senator Kelley**  
Introduced and read first time: January 27, 2003  
Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Viatical Settlement Providers and Viatical Settlement Brokers**

3 FOR the purpose of requiring viatical settlement providers and viatical settlement  
4 brokers to register with the Maryland Insurance Commissioner under certain  
5 circumstances; providing that this Act applies only to certain contracts between  
6 viators and viatical settlement providers; establishing certain registration  
7 requirements; requiring viatical settlement providers and viatical settlement  
8 brokers to make certain disclosures in a certain manner to viators under certain  
9 circumstances; providing for renewal of registrations; authorizing the  
10 Commissioner to deny a registration to an applicant or refuse to renew, suspend,  
11 or revoke a registration under certain circumstances; authorizing the  
12 Commissioner to impose a certain penalty or require restitution under certain  
13 circumstances; establishing certain violations of this Act; allowing viatical  
14 settlement providers and viatical settlement brokers transacting business in  
15 this State on the effective date of this Act to continue to transact business in this  
16 State without being registered until a certain time under certain circumstances;  
17 defining certain terms; requiring the Maryland Insurance Administration to  
18 report to certain committees of the General Assembly at a certain time; and  
19 generally relating to viatical settlement providers and viatical settlement  
20 brokers under insurance.

21 BY adding to  
22 Article - Insurance  
23 Section 8-601 through 8-610, inclusive, to be under the new subtitle "Subtitle 6.  
24 Viatical Settlement Providers and Viatical Settlement Brokers"  
25 Annotated Code of Maryland  
26 (1997 Volume and 2002 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Insurance**2 SUBTITLE 6. VIATICAL SETTLEMENT PROVIDERS AND VIATICAL SETTLEMENT  
3 BROKERS.

4 8-601.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.7 (B) "CREDIT ENHANCER" INCLUDES AN AUTHORIZED INSURER THAT  
8 PROVIDES TO A VIATICAL SETTLEMENT PROVIDER STOP LOSS COVERAGE, AN  
9 ANNUITY POLICY, AN INSURANCE POLICY, OR SIMILAR COVERAGE.

10 (C) "FINANCING ENTITY" MEANS A PERSON:

11 (1) THAT IS AN UNDERWRITER, A PLACEMENT AGENT, A LENDER, A  
12 PURCHASER OF SECURITIES, A PURCHASER OF A POLICY OR CERTIFICATE FROM A  
13 VIATICAL SETTLEMENT PROVIDER, A CREDIT ENHANCER, OR AN ENTITY THAT HAS A  
14 DIRECT OWNERSHIP INTEREST IN A POLICY OR CERTIFICATE THAT IS THE SUBJECT  
15 OF A VIATICAL SETTLEMENT CONTRACT; AND16 (2) (I) WHOSE PRINCIPAL ACTIVITY RELATED TO THE TRANSACTION  
17 IS PROVIDING FUNDS TO EFFECT THE VIATICAL SETTLEMENT OR PURCHASE OF ONE  
18 OR MORE VIATICATED POLICIES;19 (II) THAT HAS AN AGREEMENT IN WRITING WITH ONE OR MORE  
20 REGISTERED VIATICAL SETTLEMENT PROVIDERS TO FINANCE THE ACQUISITION OF  
21 VIATICAL SETTLEMENT CONTRACTS; OR22 (III) THAT IS A QUALIFIED INSTITUTIONAL BUYER, AS THAT TERM IS  
23 DEFINED IN RULE 144A OF THE FEDERAL SECURITIES ACT OF 1933.24 (D) "POLICY" MEANS AN INDIVIDUAL OR GROUP POLICY, GROUP CERTIFICATE,  
25 CONTRACT, OR ARRANGEMENT OF LIFE INSURANCE THAT AFFECTS THE RIGHTS OF A  
26 RESIDENT OF THE STATE OR THAT BEARS A REASONABLE RELATION TO THE STATE,  
27 REGARDLESS OF WHETHER DELIVERED OR ISSUED FOR DELIVERY IN THE STATE.28 (E) "RELATED PROVIDER TRUST" MEANS A TITLING TRUST OR OTHER TRUST  
29 THAT:30 (1) IS ESTABLISHED BY A REGISTERED VIATICAL SETTLEMENT  
31 PROVIDER OR A FINANCING ENTITY FOR THE SOLE PURPOSE OF HOLDING THE  
32 OWNERSHIP OR BENEFICIAL INTEREST IN PURCHASED POLICIES IN CONNECTION  
33 WITH A FINANCING TRANSACTION; AND34 (2) HAS A WRITTEN AGREEMENT WITH THE REGISTERED VIATICAL  
35 SETTLEMENT PROVIDER UNDER WHICH:

1 (I) THE VIATICAL SETTLEMENT PROVIDER IS RESPONSIBLE FOR  
2 ENSURING COMPLIANCE WITH ALL STATUTORY AND REGULATORY REQUIREMENTS;  
3 AND

4 (II) THE TRUST AGREES TO MAKE ALL RECORDS AND FILES  
5 RELATED TO VIATICAL SETTLEMENT TRANSACTIONS AVAILABLE TO THE  
6 COMMISSIONER AS IF THOSE RECORDS AND FILES WERE MAINTAINED DIRECTLY BY  
7 THE REGISTERED VIATICAL SETTLEMENT PROVIDER.

8 (F) "SPECIAL PURPOSE ENTITY" MEANS A CORPORATION, PARTNERSHIP,  
9 TRUST, LIMITED LIABILITY COMPANY, OR OTHER SIMILAR ENTITY FORMED SOLELY  
10 TO PROVIDE, EITHER DIRECTLY OR INDIRECTLY, ACCESS TO INSTITUTIONAL CAPITAL  
11 MARKETS FOR A FINANCING ENTITY OR A REGISTERED VIATICAL SETTLEMENT  
12 PROVIDER.

13 (G) (1) "VIATICAL SETTLEMENT BROKER" MEANS A PERSON THAT ON  
14 BEHALF OF A VIATOR AND FOR A FEE, COMMISSION, OR OTHER VALUABLE  
15 CONSIDERATION OFFERS OR ATTEMPTS TO NEGOTIATE VIATICAL SETTLEMENT  
16 CONTRACTS BETWEEN A VIATOR AND ONE OR MORE VIATICAL SETTLEMENT  
17 PROVIDERS.

18 (2) "VIATICAL SETTLEMENT BROKER" DOES NOT INCLUDE AN  
19 ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, OR FINANCIAL PLANNER ACCREDITED  
20 BY A NATIONALLY RECOGNIZED ACCREDITATION AGENCY, WHO IS RETAINED TO  
21 REPRESENT THE VIATOR AND WHOSE COMPENSATION IS NOT PAID DIRECTLY OR  
22 INDIRECTLY BY THE VIATICAL SETTLEMENT PROVIDER.

23 (H) (1) "VIATICAL SETTLEMENT CONTRACT" MEANS A WRITTEN  
24 AGREEMENT THAT ESTABLISHES THE TERMS UNDER WHICH COMPENSATION OR  
25 ANYTHING OF VALUE WILL BE PAID, WHICH COMPENSATION OR VALUE IS LESS  
26 THAN THE EXPECTED DEATH BENEFIT OF THE POLICY, IN RETURN FOR THE  
27 VIATOR'S ASSIGNMENT, TRANSFER, SALE, DEVISE, OR BEQUEST OF THE DEATH  
28 BENEFIT OR OWNERSHIP OF ANY PART OF THE POLICY.

29 (2) "VIATICAL SETTLEMENT CONTRACT" INCLUDES:

30 (I) A CONTRACT FOR A LOAN OR OTHER FINANCING TRANSACTION  
31 WITH A VIATOR SECURED PRIMARILY BY A POLICY, OTHER THAN A LOAN BY A LIFE  
32 INSURER UNDER THE TERMS OF THE POLICY OR A LOAN SECURED BY THE CASH  
33 VALUE OF A POLICY; AND

34 (II) AN AGREEMENT WITH A VIATOR TO TRANSFER OWNERSHIP OR  
35 CHANGE THE BENEFICIARY DESIGNATION AT A LATER DATE REGARDLESS OF THE  
36 DATE THAT COMPENSATION IS PAID TO THE VIATOR.

37 (3) "VIATICAL SETTLEMENT CONTRACT" DOES NOT INCLUDE A  
38 CONTRACT ENTERED INTO OR EFFECTUATED BETWEEN A VIATICAL SETTLEMENT  
39 PROVIDER AND A FINANCING ENTITY, A RELATED PROVIDER TRUST, OR A SPECIAL  
40 PURPOSE ENTITY.

1 (I) (1) "VIATICAL SETTLEMENT PROVIDER" MEANS A PERSON, OTHER THAN  
2 A VIATOR, THAT ENTERS INTO OR EFFECTUATES A VIATICAL SETTLEMENT  
3 CONTRACT.

4 (2) "VIATICAL SETTLEMENT PROVIDER" DOES NOT INCLUDE AN  
5 INDIVIDUAL WHO ENTERS INTO OR EFFECTUATES NO MORE THAN ONE AGREEMENT  
6 IN A CALENDAR YEAR FOR THE TRANSFER OF POLICIES FOR ANY VALUE LESS THAN  
7 THE EXPECTED DEATH BENEFIT.

8 (J) "VIATICATED POLICY" MEANS A POLICY THAT HAS BEEN ACQUIRED BY A  
9 VIATICAL SETTLEMENT PROVIDER UNDER A VIATICAL SETTLEMENT CONTRACT.

10 (K) (1) "VIATOR" MEANS THE OWNER OR CERTIFICATE HOLDER OF A POLICY  
11 WHO ENTERS OR SEEKS TO ENTER INTO A VIATICAL SETTLEMENT CONTRACT.

12 (2) "VIATOR" DOES NOT INCLUDE AN ACCREDITED INVESTOR OR  
13 QUALIFIED INSTITUTIONAL BUYER, AS DEFINED IN REGULATION D, RULE 501, OR  
14 RULE 144A OF THE FEDERAL SECURITIES ACT OF 1933.

15 8-602.

16 THIS SUBTITLE APPLIES ONLY TO A VIATICAL SETTLEMENT CONTRACT  
17 BETWEEN A VIATOR AND A VIATICAL SETTLEMENT PROVIDER.

18 8-603.

19 (A) A PERSON MUST REGISTER WITH THE COMMISSIONER BEFORE THE  
20 PERSON ACTS AS OR REPRESENTS ITSELF AS A VIATICAL SETTLEMENT PROVIDER OR  
21 VIATICAL SETTLEMENT BROKER IN THE STATE.

22 (B) EMPLOYEES AND AGENTS OF A REGISTERED VIATICAL SETTLEMENT  
23 PROVIDER OR A REGISTERED VIATICAL SETTLEMENT BROKER MAY NOT BE  
24 REQUIRED TO BE SEPARATELY REGISTERED EXCEPT IN ACCORDANCE WITH  
25 REGULATIONS ADOPTED BY THE COMMISSIONER.

26 8-604.

27 AN APPLICANT FOR REGISTRATION SHALL:

28 (1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE FORM  
29 THAT THE COMMISSIONER REQUIRES; AND

30 (2) PAY TO THE COMMISSIONER A REGISTRATION FEE OF \$2,000.

31 8-605.

32 (A) NOTWITHSTANDING THE MANNER IN WHICH THE VIATICAL SETTLEMENT  
33 BROKER IS COMPENSATED, A VIATICAL SETTLEMENT BROKER IS DEEMED TO  
34 REPRESENT ONLY THE VIATOR AND OWES A FIDUCIARY DUTY TO THE VIATOR TO  
35 ACT ACCORDING TO THE VIATOR'S INSTRUCTIONS AND IN THE BEST INTEREST OF  
36 THE VIATOR.

1 (B) FOR PURPOSES OF THIS SUBTITLE, A VIATOR MAY NOT BE LIMITED TO AN  
2 OWNER OR CERTIFICATE HOLDER OF A POLICY THAT INSURES THE LIFE OF AN  
3 INDIVIDUAL WITH A TERMINAL OR CHRONIC ILLNESS OR CONDITION.

4 8-606.

5 (A) BEFORE AN OFFER TO PURCHASE A POLICY CAN BE MADE TO A VIATOR, A  
6 VIATICAL SETTLEMENT PROVIDER SHALL:

7 (1) PROVIDE THE VIATOR WITH A DISCLOSURE STATEMENT THAT:

8 (I) CONTAINS THE DISCLOSURES REQUIRED IN SUBSECTIONS (B)  
9 AND (C) OF THIS SECTION; AND

10 (II) HAS BEEN SIGNED BY THE VIATICAL SETTLEMENT PROVIDER;  
11 AND

12 (2) RECEIVE FROM THE VIATOR THE DISCLOSURE STATEMENT SIGNED  
13 BY THE VIATOR.

14 (B) BEFORE AN OFFER TO PURCHASE A POLICY CAN BE MADE TO THE VIATOR,  
15 A VIATICAL SETTLEMENT PROVIDER SHALL PROVIDE TO THE VIATOR A DISCLOSURE  
16 STATEMENT THAT CONTAINS THE FOLLOWING DISCLOSURES:

17 (1) THERE ARE POSSIBLE ALTERNATIVES TO VIATICAL SETTLEMENT  
18 CONTRACTS, INCLUDING ANY ACCELERATED DEATH BENEFITS OR POLICY LOANS  
19 OFFERED UNDER THE VIATOR'S POLICY;

20 (2) SOME OR ALL OF THE PROCEEDS OF THE VIATICAL SETTLEMENT  
21 MAY BE TAXABLE UNDER FEDERAL OR STATE INCOME TAX LAW, AND ASSISTANCE  
22 SHOULD BE SOUGHT FROM A PROFESSIONAL TAX ADVISER;

23 (3) PROCEEDS OF THE VIATICAL SETTLEMENT COULD BE SUBJECT TO  
24 THE CLAIMS OF CREDITORS;

25 (4) RECEIPT OF THE PROCEEDS OF A VIATICAL SETTLEMENT MAY  
26 ADVERSELY AFFECT THE VIATOR'S ELIGIBILITY FOR MEDICAID OR OTHER  
27 GOVERNMENT BENEFITS OR ENTITLEMENTS, AND ADVICE SHOULD BE OBTAINED  
28 FROM THE APPROPRIATE GOVERNMENT AGENCIES;

29 (5) (I) THE VIATOR HAS THE RIGHT TO RESCIND A VIATICAL  
30 SETTLEMENT CONTRACT FOR 15 CALENDAR DAYS AFTER RECEIPT OF THE VIATICAL  
31 SETTLEMENT PROCEEDS BY THE VIATOR, SUBJECT TO REPAYMENT OF ALL VIATICAL  
32 SETTLEMENT PROCEEDS AND ANY PREMIUMS AND LOAN INTEREST PAID BY THE  
33 VIATICAL SETTLEMENT PROVIDER; AND

34 (II) IF THE INSURED DIES DURING THE RESCISSION PERIOD, THE  
35 VIATICAL SETTLEMENT CONTRACT SHALL BE DEEMED TO HAVE BEEN RESCINDED,  
36 SUBJECT TO REPAYMENT OF ALL VIATICAL SETTLEMENT PROCEEDS AND ANY  
37 PREMIUMS, LOANS, AND LOAN INTEREST TO THE VIATICAL SETTLEMENT PROVIDER;

1 (6) FUNDS WILL BE SENT TO THE VIATOR WITHIN 3 BUSINESS DAYS  
2 AFTER THE VIATICAL SETTLEMENT PROVIDER HAS RECEIVED THE INSURER'S OR  
3 GROUP ADMINISTRATOR'S ACKNOWLEDGMENT THAT OWNERSHIP OF OR INTEREST  
4 IN THE POLICY HAS BEEN TRANSFERRED AND THE BENEFICIARY HAS BEEN  
5 DESIGNATED;

6 (7) ENTERING INTO A VIATICAL SETTLEMENT CONTRACT MAY CAUSE  
7 OTHER RIGHTS OR BENEFITS, INCLUDING CONVERSION RIGHTS AND WAIVER OF  
8 PREMIUM BENEFITS THAT MAY EXIST UNDER THE POLICY, TO BE FORFEITED BY THE  
9 VIATOR, AND ASSISTANCE SHOULD BE SOUGHT FROM A FINANCIAL ADVISER; AND

10 (8) (I) THE INSURED MAY BE CONTACTED BY EITHER THE VIATICAL  
11 SETTLEMENT PROVIDER OR THE VIATICAL SETTLEMENT BROKER OR ITS  
12 AUTHORIZED REPRESENTATIVE FOR THE PURPOSE OF DETERMINING THE  
13 INSURED'S HEALTH STATUS; AND

14 (II) THIS CONTACT IS LIMITED TO:

15 1. ONCE EVERY 3 MONTHS IF THE INSURED HAS A LIFE  
16 EXPECTANCY OF MORE THAN 1 YEAR; AND

17 2. NOT MORE THAN ONCE PER MONTH IF THE INSURED HAS  
18 A LIFE EXPECTANCY OF 1 YEAR OR LESS.

19 (C) (1) DISCLOSURE TO A VIATOR ALSO SHALL INCLUDE DISTRIBUTION OF A  
20 BROCHURE THAT DESCRIBES THE PROCESS OF VIATICAL SETTLEMENTS.

21 (2) THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS  
22 FORM FOR THE BROCHURE SHALL BE USED UNLESS A BROCHURE IS DEVELOPED BY:

23 (I) THE COMMISSIONER; OR

24 (II) A VIATICAL SETTLEMENT BROKER OR VIATICAL SETTLEMENT  
25 PROVIDER THAT IS APPROVED BY THE COMMISSIONER.

26 (D) THE DISCLOSURE DOCUMENT SHALL CONTAIN THE FOLLOWING  
27 LANGUAGE: "ALL MEDICAL, FINANCIAL, OR PERSONAL INFORMATION SOLICITED OR  
28 OBTAINED BY A VIATICAL SETTLEMENT PROVIDER OR VIATICAL SETTLEMENT  
29 BROKER ABOUT AN INSURED, INCLUDING THE INSURED'S IDENTITY OR THE  
30 IDENTITY OF FAMILY MEMBERS, A SPOUSE, OR A SIGNIFICANT OTHER MAY BE  
31 DISCLOSED AS NECESSARY TO EFFECT THE VIATICAL SETTLEMENT BETWEEN THE  
32 VIATOR AND THE VIATICAL SETTLEMENT PROVIDER. IF YOU ARE ASKED TO PROVIDE  
33 THIS INFORMATION, YOU WILL BE ASKED TO CONSENT TO THE DISCLOSURE. THE  
34 INFORMATION MAY BE PROVIDED TO SOMEONE WHO BUYS THE POLICY OR  
35 PROVIDES FUNDS FOR THE PURCHASE. YOU MAY BE ASKED TO RENEW YOUR  
36 PERMISSION TO SHARE INFORMATION EVERY 2 YEARS."

37 (E) A VIATICAL SETTLEMENT PROVIDER OR VIATICAL SETTLEMENT BROKER  
38 SHALL PROVIDE THE VIATOR WITH A COPY OF THE DISCLOSURE STATEMENT SIGNED  
39 BY THE VIATOR AND THE VIATICAL SETTLEMENT PROVIDER OR VIATICAL

1 SETTLEMENT BROKER, AT THE TIME THAT AN APPLICATION FOR A VIATICAL  
2 SETTLEMENT CONTRACT IS PROVIDED TO THE VIATOR.

3 (F) (1) A VIATICAL SETTLEMENT PROVIDER SHALL PROVIDE THE VIATOR  
4 WITH AT LEAST THE DISCLOSURES REQUIRED BY THIS SUBSECTION NO LATER THAN  
5 THE DATE THAT THE VIATICAL SETTLEMENT CONTRACT IS SIGNED BY ALL PARTIES.

6 (2) THE DISCLOSURES SHALL BE CONSPICUOUSLY DISPLAYED IN THE  
7 VIATICAL SETTLEMENT CONTRACT OR IN A SEPARATE DOCUMENT SIGNED BY THE  
8 VIATOR AND THE VIATICAL SETTLEMENT PROVIDER OR VIATICAL SETTLEMENT  
9 BROKER.

10 (3) THE DISCLOSURES REQUIRED UNDER THIS SUBSECTION SHALL  
11 PROVIDE THE FOLLOWING INFORMATION:

12 (I) A STATEMENT OF THE AFFILIATION, IF ANY, BETWEEN THE  
13 VIATICAL SETTLEMENT BROKER, VIATICAL SETTLEMENT PROVIDER, AND THE  
14 INSURER THAT ISSUED THE POLICY TO BE VIATICATED;

15 (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE  
16 VIATICAL SETTLEMENT PROVIDER;

17 (III) A DISCLOSURE BY THE VIATICAL SETTLEMENT BROKER OF THE  
18 AMOUNT AND METHOD OF CALCULATING THE VIATICAL SETTLEMENT BROKER'S  
19 COMPENSATION, INCLUDING ANYTHING OF VALUE PAID OR GIVEN TO A VIATICAL  
20 SETTLEMENT BROKER FOR THE PLACEMENT OF A POLICY;

21 (IV) IF THE POLICY TO BE VIATICATED HAS BEEN ISSUED AS A  
22 JOINT POLICY OR INVOLVES FAMILY RIDERS OR ANY COVERAGE OF A LIFE OTHER  
23 THAN THE INSURED UNDER THE POLICY TO BE VIATICATED, THE VIATOR SHALL BE  
24 INFORMED OF THE POSSIBLE LOSS OF COVERAGE ON THE OTHER LIVES UNDER THE  
25 POLICY AND SHALL BE ADVISED TO CONSULT WITH AN INSURANCE PRODUCER OR  
26 THE INSURER ISSUING THE POLICY FOR ADVICE ON THE PROPOSED VIATICAL  
27 SETTLEMENT;

28 (V) 1. THE DOLLAR AMOUNT OF THE CURRENT DEATH BENEFIT  
29 PAYABLE TO THE VIATICAL SETTLEMENT PROVIDER UNDER THE POLICY; AND

30 2. IF KNOWN, THE AVAILABILITY OF ANY ADDITIONAL  
31 GUARANTEED INSURANCE BENEFITS, THE DOLLAR AMOUNT OF ANY ACCIDENTAL  
32 DEATH AND DISMEMBERMENT BENEFITS UNDER THE POLICY, AND THE VIATICAL  
33 SETTLEMENT PROVIDER'S INTEREST IN THOSE BENEFITS; AND

34 (VI) 1. THE NAME, BUSINESS ADDRESS, AND TELEPHONE  
35 NUMBER OF THE INDEPENDENT THIRD PARTY ESCROW AGENT; AND

36 2. THE FACT THAT THE VIATOR OR OWNER MAY INSPECT OR  
37 RECEIVE COPIES OF THE RELEVANT ESCROW OR TRUST AGREEMENTS OR  
38 DOCUMENTS.

1 (G) IF THE VIATICAL SETTLEMENT PROVIDER TRANSFERS OWNERSHIP OR  
2 CHANGES THE BENEFICIARY OF THE POLICY, THE VIATICAL SETTLEMENT PROVIDER  
3 SHALL COMMUNICATE THE CHANGE IN OWNERSHIP OR BENEFICIARY TO THE  
4 INSURED WITHIN 20 DAYS AFTER THE CHANGE.

5 8-607.

6 (A) A REGISTRATION EXPIRES AT THE END OF EVERY OTHER YEAR ON THE  
7 ANNIVERSARY OF THE REGISTRATION UNLESS IT IS RENEWED AS PROVIDED IN THIS  
8 SECTION.

9 (B) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT MAY RENEW IT FOR  
10 AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT:

11 (1) OTHERWISE IS ENTITLED TO BE REGISTERED;

12 (2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE  
13 FORM THAT THE COMMISSIONER REQUIRES; AND

14 (3) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$50.

15 (C) AN APPLICATION FOR RENEWAL OF A REGISTRATION SHALL BE  
16 CONSIDERED MADE IN A TIMELY MANNER IF IT IS POSTMARKED ON OR BEFORE THE  
17 ANNIVERSARY DATE OF THE REGISTRATION OF THE YEAR OF RENEWAL.

18 8-608.

19 SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE  
20 COMMISSIONER MAY DENY A REGISTRATION TO AN APPLICANT OR REFUSE TO  
21 RENEW, SUSPEND, OR REVOKE THE REGISTRATION OF A REGISTRANT IF THE  
22 APPLICANT OR REGISTRANT:

23 (1) KNOWINGLY MAKES A MATERIAL MISSTATEMENT IN AN  
24 APPLICATION FOR REGISTRATION;

25 (2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO  
26 OBTAIN A REGISTRATION FOR THE APPLICANT OR REGISTRANT OR FOR ANOTHER;

27 (3) HAS BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR  
28 INVOLVING MORAL TURPITUDE;

29 (4) IN CONNECTION WITH THE VIATICAL SETTLEMENT CONTRACT AND  
30 RELATED INSURANCE APPLICATION, COMMITS FRAUD OR ENGAGES IN ILLEGAL OR  
31 DISHONEST ACTIVITIES;

32 (5) OTHERWISE HAS SHOWN A LACK OF TRUSTWORTHINESS OR  
33 COMPETENCE TO ACT AS A VIATICAL SETTLEMENT BROKER OR VIATICAL  
34 SETTLEMENT PROVIDER; OR

35 (6) VIOLATES ANY PROVISION OF THIS SUBTITLE OR A REGULATION  
36 ADOPTED UNDER IT.

1 8-609.

2 INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A REGISTRATION,  
3 THE COMMISSIONER MAY:

4 (1) IMPOSE ON THE HOLDER A PENALTY NOT EXCEEDING \$125,000 FOR  
5 EACH VIOLATION OF THIS SUBTITLE; AND

6 (2) REQUIRE THE HOLDER TO MAKE RESTITUTION TO ANY PERSON  
7 THAT HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF THIS  
8 SUBTITLE.

9 8-610.

10 IT IS A VIOLATION OF THIS SUBTITLE FOR A VIATICAL SETTLEMENT BROKER OR  
11 VIATICAL SETTLEMENT PROVIDER TO:

12 (1) VIOLATE ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION  
13 ADOPTED UNDER THIS SUBTITLE;

14 (2) FAIL TO REGISTER WITH THE COMMISSIONER IN ACCORDANCE WITH  
15 THIS SUBTITLE BEFORE ACTING OR REPRESENTING ITSELF AS A VIATICAL  
16 SETTLEMENT BROKER OR VIATICAL SETTLEMENT PROVIDER;

17 (3) FAIL TO PROVIDE A VIATOR WITH A DISCLOSURE STATEMENT IN  
18 ACCORDANCE WITH THIS SUBTITLE;

19 (4) FAIL TO ALLOW A VIATOR TO RESCIND A VIATICAL SETTLEMENT  
20 CONTRACT UP TO AT LEAST 15 CALENDAR DAYS AFTER THE RECEIPT OF THE  
21 VIATICAL SETTLEMENT PROCEEDS BY THE VIATOR; AND

22 (5) FAIL TO DELIVER TO A VIATOR THE VIATICAL SETTLEMENT  
23 PROCEEDS IN ACCORDANCE WITH THIS SUBTITLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall  
25 affect the jurisdiction of the Securities Commissioner of the Office of the Attorney  
26 General of Maryland.

27 SECTION 3. AND BE IT FURTHER ENACTED, That, in the absence of an  
28 order by the Maryland Insurance Commissioner to the contrary, a viatical settlement  
29 provider or a viatical settlement broker transacting business in this State on the  
30 effective date of this Act may continue to transact business in this State without being  
31 registered, as required under Section 1 of this Act, until the Commissioner approves  
32 or disapproves the viatical settlement provider's or viatical settlement broker's  
33 application for registration if:

34 (a) the viatical settlement provider or viatical settlement broker applies for  
35 registration no later than 30 days after the date the Commissioner makes available  
36 viatical settlement provider registration applications or viatical settlement broker  
37 registration applications; and

1 (b) the viatical settlement provider or viatical settlement broker complies with  
2 all other provisions of this Act.

3 SECTION 4. AND BE IT FURTHER ENACTED, That the Maryland  
4 Insurance Administration shall report, in accordance with § 2-1246 of the State  
5 Government Article, to the Senate Finance Committee and the House Economic  
6 Matters Committee 1 year after the date the Maryland Insurance Commissioner  
7 makes available viatical settlement provider registration applications and viatical  
8 settlement broker registration applications on whether:

9 (a) the registration fee under § 8-604 of the Insurance Article, as enacted by  
10 Section 1 of this Act, is adequate to cover the cost incurred by the Administration for  
11 the regulation of viatical settlement brokers and viatical settlement providers; and

12 (b) any change to the registration fee is appropriate.

13 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take  
14 effect October 1, 2003.